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February 19, 2015

VIA ECF

The Honorable A. Kathleen Tomlinson
United States Magistrate Judge
Eastern District of New York
United States District Court
100 Federal Plaza
Central Islip, NY 11722

**Re: Krumholz, et al. v. Associated Materials, et al.
Case No.: 14-CV-05371 (JS) (AKT)**

Your Honor:

This firm is counsel to Plaintiffs in the above-referenced matter. We write requesting that Defendants' February 18, 2005, letter (Docket # 30) be stricken as it fails to comply with Your Honor's Individual Rules of Practice and Local Civil Rule 26.5. For those reasons alone, Counsel's letter should be disregarded.

Additionally, had counsel taken the time to confer, he would have been reminded of the representations made in court regarding class certification being limited to New York class members at this time. Whereas it appears unlikely that Mr. Gershengorn would concede that the case law upon which he relies from the 11th Circuit, Eastern District of Michigan, Northern District of Oklahoma, Georgia Court of Appeals and Utah is not binding upon us in the Eastern District of New York especially since our very own Judges Spatt and Bianco have written on the issue, he would certainly have to agree that in addition to the FLSA claims brought on behalf of the class New York Labor Law claims have been brought as well.

It seems fitting that Mr. Gershengorn's application should be denied and he be ordered to meet and confer.



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Plaintiffs' counsel remains available should Your Honor require any additional information regarding this submission.

Respectfully submitted,

ZABELL & ASSOCIATES, P.C.

A handwritten signature in black ink, appearing to be 'Saul D. Zabell', is written over the printed name. The signature is fluid and cursive, with a large loop at the end.

Saul D. Zabell

cc: Brian J. Gershengorn, Esq.